

DETAILED ACTION

This action is responsive to communications: amendment filed 10/3/2007, to the original application filed 112112000.

Claims 1-24 pending. Claims 1, 9, and 17 are independent.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/2/2008 has been entered.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The claimed invention (as claimed in claims 17-24) is directed to non-statutory subject matter.

In regard to independent claim 17 (and dependent claims 18-24 by virtue of their dependencies upon a rejected base claim), claim 17 recites "A computer-implemented system...". However, the instant claim language does not specify that the claimed invention includes hardware. As such, the language of the claim merely describes a computer program per se. This raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine, which would result in a practical application producing a concrete, useful and tangible result to form the basis of statutory subject matter under 35 USC 101.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 9-14, 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonezawa et al. (hereinafter Yonezawa), U.S. Patent No. 5,905,973 filed 9/29/1997, issued 5/18/1999, in view of Okada et al. (hereinafter Okada), U.S. Patent No. 6,910,018 filed 8/30/1999, issued 6/21/2005, and further in view of Dedrick (hereinafter Dedrick), US 5,768,521 patented 6/16/1998.

In regard to independent claim 1, Yonezawa teaches an online shopping System utilizing an electronic shopping basket titled "Contents of shopping basket", which can be fairly interpreted as a content object (claim 1 "a content object"), the contents of said basket showing a plurality of selected flower items (claim 1 "a plurality of content entities"), said basket also showing total payment for the items in said basket (claim 1 "a price for the content object") (Yonezawa Abstract, Figure 4). It is noted that Yonezawa's total payment indicated in Figure 4 results from the multiplication of sub-item numbers (Figure 4 item 408) with unit prices (Figure 4 item 406), resulting in sub-totals added accordingly (Figure 4 item 410).

Yonezawa does not forcefully disclose that its shopping basket is a "collection of images". However, Yonezawa's teaching of a flower catalog including two images of flower bunches within said flower catalog (Yonezawa Figure 3) providing reasonable suggestion to one of ordinary skill in the art at the time of the invention that Yonezawa's shopping basket (content object) is at least associated with, and reflective of, a collection of flower images ("collection of images") for sale, providing the benefit of image collections to aid the user selection process.

Yonezawa does not specifically disclose that the price (Yonezawa's total payment) is determined from a "content count". However, Yonezawa's teaches in column 5 lines 23-25 that numeral 412 (total payment) "denotes a total pay amount for all items", providing reasonable suggestion to one of ordinary skill in the art at the time of the invention that Yonezawa's "all items" (corresponding to claim 1 "content count") is used by Yonezawa to determine (via the processing of sub-item numbers with unit pricing in Yonezawa Figure 4) to achieve a total payment price for the content object. It is further noted that Yonezawa Figure 4 item 408 reflects sub-item numbers, which when added together form a total count of all items selected. Displaying the shopping basket with processed sub-item numbers, unit pricing, sub-totals, and total payment, provides the user the benefit of visually checking a purchase accordingly.

Yonezawa does not specifically teach prices based upon an estimated content count. However, Okada teaches an online purchasing method comprising estimation (Okada column 15 lines 3-13, Figure 17). It is noted that although a user inputs a "Request Quantity", the quantity amount can be reasonably interpreted as an estimate, due to its reliance upon an estimated unit price. A user can adjust (estimate) the quantity accordingly (a second set of conditions). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Okada to Yonezawa, providing Yonezawa the benefit of estimating materials and costs in a dynamic environment.

Yonezawa does not specifically teach a digital object comprising digital data, and gathering counts from said digital data. However, Dedrick teaches a method of metering the flow of electronic information to a client computer (Dedrick Abstract). Dedrick teaches determining a unit of information count for the content entity (a digital entry) in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. 4 line 26 - Col. 5 line 25, and col. 7 lines 29-43. Dedrick teaches specific examples that the content count unit may be in bytes or words in col. 4 lines 63-64. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Dedrick to Yonezawa, providing Yonezawa the benefit of applying metering to virtual objects such as online books, digital directories etc.

In regard to dependent claim 2, Yonezawa teaches determining a number (content count) for each item type (Yonezawa Figure 4), with numbers in item 408 reflecting the subtotals of the total content count for the shopping basket (see also Yonezawa's column 5 lines 23-25).

In regard to dependent claim 3, Yonezawa teaches determining a number (content count) for each item type (Yonezawa Figure 4). Yonezawa does not specifically teach character counts for the entities. However, Dedrick teaches determining a unit of information count for the content entity in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43. Dedrick teaches specific examples that the content count unit may be in bytes or words in col. 4 lines 63-64. Although Dedrick does not specifically mention a character count, Dedrick's teaching of a byte unit count will correlate exactly in proportion to the size of the content entity just as a character count will correlate exactly in proportion to the size of the content entity. Each additional character contained in the content entity will increase the representative byte count by the same unit amount that a character count would increase. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have applied Dedrick's byte/character count to Yonezawa's shopping basket, providing Yonezawa the benefit of an alternative way of purchasing an item that is priced based upon character counts (i.e. custom greeting cards, embossing name plates, etc.).

Regarding dependent claim 4, Yonezawa teaches determining a number (content count) for each item type (Yonezawa Figure 4). Yonezawa does not specifically teach determining page counts from character counts for the entities. However, Dedrick teaches determining a unit of information count for the content entity in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43. Dedrick teaches specific examples that the content count unit may be in bytes or words in col. 4 lines 63-64. Determining a page count from the character count is merely changing the units of the count from characters to pages. Dedrick teaches an information unit count of bytes in col. 4 lines 63-64 and megabytes in col. 5 lines 21-23. The two example units of Dedrick are related exactly as the characters and pages of the claimed invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied Dedrick to Yonezawa, providing Yonezawa the benefit of converting characters into pages so that the cost computation would have been

Art Unit: 2175

simplified.

In regard to dependent claim 5, Yonezawa teaches determining a number (content count) for each item type (Yonezawa Figure 4). Yonezawa also teaches determining content entity type (Yonezawa Figure 4 item 402, 404). Yonezawa does not specifically teach counting characters, and averaging from the entity. However, Dedrick teaches determining a unit of information count for the content entity in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43. Dedrick teaches specific examples that the content count unit may be in bytes or words in col. 4 lines 63-64. Although Dedrick does not specifically mention that the unit of information is a character count. However, Dedrick's teaching of a byte unit count will correlate exactly in proportion to the size of the content entity just as a character count will correlate exactly in proportion to the size of the content entity. Each additional character contained in the content entity will increase the representative byte count by the same unit amount that a character count would increase. Dedrick teaches counting the number of bytes in a content entity, and determining an average character count for content entities of that type in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Dedrick to Yonezawa, providing Yonezawa the benefit of displaying extra information for a more informed decision.

In regard to dependent claim 6, Yonezawa teaches determining a number (content count) for each item type (Yonezawa Figure 4). Yonezawa also teaches determining content entity type (Yonezawa Figure 4 item 402, 404), as well as a unit price (price per item) (Yonezawa Figure 4 item 406). Yonezawa does not specifically teach multiplying page counts. However, Dedrick teaches determining a unit of information count for the content entity in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43. Dedrick teaches multiplying the page count with a predetermined price per page in col. 1 line 62 - col. 2 line 22, col. 3 lines 60-63, col. 4 line 26 - col. 5 line 25, and col. 7 lines 29-43. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Dedrick to Yonezawa, providing Yonezawa the benefit of displaying page counts within the shopping basket for a more informed decision, based upon items that are priced according to page counts.

In regard to claims 9, 10, claims 9, 10 reflect the computer program product comprising computer executable instructions used for performing the methods as claimed in claims 1, 2 respectively, and are rejected along the same rationale.

In regard to dependent claims 11-14, claims 11-14 reflect the computer program product comprising computer executable instructions used for performing the methods as claimed in claims 3-6 respectively, and are rejected along the same rationale.

In regard to claims 17, 18, claims 17, 18 reflect the system comprising computer executable instructions used for performing the methods as claimed in claims 1, 2 respectively, and are rejected along the same rationale.

In regard to claims 19-22, claims 19-22 reflect the system comprising computer executable instructions used for performing the methods as claimed in claims 3-6 respectively, and are rejected along the same rationale.

Claims 7-8, 15-16, and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonezawa, Okada, and Detrick as applied to claims 1, 9, 17 above, and further in view of Khan et al. (hereinafter Khan), US 6,199,054 B1 filed 3/5/1998.

Regarding dependent claim 7, Yonezawa does not teach that at least one of the content entities comprises user provided content. However, Khan teaches wherein a user may selectively add a user-provided content entity subject to price metering in col. 3 lines 61-64. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the user-provided content teaching of Khan to Yonezawa. It would have been obvious and desirable to have allowed the user to have provided content to further customize the interactive selection of content entities composing the content object, and displayed in Yonezawa's shopping basket.

Regarding dependent claim 8, Yonezawa does not specifically teach defining a price when exceeding predefined content maximum, etc. However, Dedrick teaches wherein the price for user-provided material is determined in a first manner if the content count exceeds a predetermined content count maximum, and is determined in a second manner if the content count does not exceed the predefined maximum in col. 5 lines 23- 25. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Dedrick to Yonezawa, providing Yonezawa the benefit of a more detailed price analysis added to Yonezawa's shopping basket.

In regard to dependent claim 15, claim 15 reflects the computer program product comprising computer executable instructions used for performing the method as claimed in claim 7, and is rejected along the same rationale.

In regard to dependent claim 16, claim 16 reflects the computer program product comprising computer executable instructions used for performing the method as claimed in claim 8, and is rejected along the same rationale.

In regard to dependent claim 23, claim 23 reflects the system comprising computer executable instructions used for performing the method as claimed in claim 7, and is rejected along the same rationale.

In regard to dependent claim 24, claim 24 reflects the system comprising computer executable instructions used for performing the method as claimed in claim 8, and is rejected along the same rationale.

Examiner's Note

It is noted that any citations to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. See, MPEP 2123.

Response to Arguments

Applicant's arguments filed 4/2/2008 have been fully and carefully considered but they are not persuasive. Applicant argues that the cited references do not teach "digital" objects. However, Dedrick teaches electronic metering of digital information in the form of an electronic phone directory. The amount of monetary charges are based upon metering of byte or word counts. This teaching is applied to the instant rejections accordingly.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM L. BASHORE whose telephone number is (571)272-4088. The examiner can normally be reached on 9:00 am - 5:30 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William L. Bashore can be reached on (571) 272-4088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William L. Bashore/
Primary Examiner, Art Unit 2175